



State of Delaware
Commission on Forensic Science

Minutes - 2/13/17

10:00 a.m. – 12: 00 Noon

Division of Forensic Science - 1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome, Call to Order, and Introductions

- The meeting was called to order by the Commission's newly appointed Chair, Chief Randall Hughes. He provided a brief welcome and thanked everyone for coming. In attendance were:

Voting Commission Members

DAG Barzilai Axelrod	Department of Justice
Secretary Rob Coupe	Department of Safety & Homeland Security
Chief Randall L. Hughes	Delaware Police Chiefs' Council – Chair
Senator Robert Marshall	Delaware State Senate
Lisa Schwind, RN, Esquire	Office of Defense Services-Public Defender's Office
Anita Symonds, RN	Christiana Care
Secretary Kara Walker	Department of Health & Social Services

Non-voting Attendees

Commission's Legal Support

DAG Lisa Morris	Department of Justice
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Additional Non-voting Attendees

Johna Esposito	DFS – Quality Assurance Manager
John R. Evans	DFS - Director
Joanne Finnigan	DHSS – Chief Policy Advisor
Isabella Kaplan	DTI - Customer Engagement Specialist
Amrita Lal-Paterson	DFS – DNA Technical Leader
Jessica Smith	DFS - Chief Forensic Toxicologist
Julia Vekasy	DFS – Forensic Investigator
Rebecca Walker	DFS - Chief Operating Officer

Absent Voting Commission Members

Representative John Mitchell	Delaware House of Representatives
Clytrice L. Watson, Ph.D.	Interim Dean-College of Math, Natural Sciences & Technologies, Delaware State University

- Introductions: Chief Hughes made an amendment to the agenda by adding the appointment of DAG Barzilai Axelrod. He welcomed the Governor's newly appointed Cabinet Secretaries to the Commission, as well as the Attorney General's newly appointed DAG:

- a. Secretary Rob Coupe, Department of Safety & Homeland Security
- b. Secretary Dr. Kara Walker, Department of Health & Social Services
- c. Barzilai Axelrod, Deputy Attorney General – DOJ

Chief Hughes read DAG Axelrod's appointment letter addressed to Secretary Coupe for the record:

- "Pursuant to the provision for the signed legislation establishing the Commission on Forensic Science (Title 29, Chapter 47, §4714 of the Delaware Code), this letter serves to confirm that I have appointed Barzilai Axelrod to replace Cat Gatto as the designee from the Delaware Department of Justice to the Commission, to serve at my pleasure. Barzi serves as a Deputy Attorney General for the Delaware Department of Justice. He can be reached at 302-577-5173, or via e-mail at barzilai.axelrod@state.de.us. Please feel free to contact me if you have any questions. Sincerely, Matthew Denn, Attorney General".
- Chief Hughes asked if anyone wished to make any other changes/additions to the agenda. Hearing none, he moved the meeting forward to approval of the minutes.

2. Approval of the Minutes

- Anita Symonds, R.N, made a motion to approve; ODS Lisa Schwind seconded the motion. Hearing no objections, all voting members in attendance unanimously voted to approve the minutes of November 14, 2016 meeting.

3. Election of Commission Vice-Chair

- Senator Marshall made a motion to nominate Secretary Coupe as Vice-Chair and Secretary Walker seconded the motion. The vote was unanimous.

4. Meeting Schedule

- Chief Hughes presented the proposed schedule for meetings in 2017 and stressed the need of a quorum at the meetings. Chief Hughes is out of state on April 10, but the new Vice-Chair, Secretary Coupe, will lead that meeting.

5. 2017 Goals and Objectives

- Chief Hughes asked Commission members to discuss goals and objectives to codify them moving forward.

- Chief Hughes said he wants to take a look at this building and what is being done not only from a physical standpoint, but from a scientific standpoint as well. The Strategic Planning Advisory Committee, previously chaired by Director Evans, moved forward with the idea of consolidating all forensic services in the State into one facility. It is well documented regarding the concerns about this building meeting its current mission, let alone an expanded one. Chief Hughes suggested that the feasibility study should certainly be “Priority #1” for the Commission. We can accomplish this by working with our partners in the General Assembly and with our Cabinet Secretaries (who happen to be Commission members), working with the Attorney General’s office, and with Defense Legal Services - all who are huge stakeholders in what goes on in this building. It is imperative the Commission move forward with this goal.
- Chief Hughes’ second goal was to participate in addressing the opioid, specifically heroin, epidemic facing Delaware. There are large amounts of illegal substances sitting in our evidence lockers that are not being tested. From a public health standpoint, it really is not known what is being stored because drug testing was not done perhaps due to the case not going to trial. Unknown to anyone, there may be fentanyl-laced heroin sitting somewhere in those evidence lockers. We should look to make this a part of the feasibility study to look at how the opioid epidemic fits into expanding the mission of this agency. Of course, today the Forensic Chemistry Unit could not handle that influx of drugs, but Chief Hughes would like this avenue explored as part of the feasibility study.
- Senator Marshall asked about security of illegal substances in evidence lockers. Chief Hughes said that many drugs seized during arrests are never tested because the case may not move through the court system either because the plea was dropped or it was not a good case, etc. He was looking at it from a public health standpoint that drugs not used to adjudicate a case are still great evidence for analyses which would help with the public health piece. Director Evans added that the drugs Chief Hughes is referencing never come through the doors of DFS and are being held at various law enforcement agencies in secured vaults according to their policies, procedures and practices. To Chief Hughes’ point, DFS does not have a picture of what those drugs look like; we have only a snapshot of the drug picture as it pertains to what comes in through here.
- ODS Schwind asked if there is a pipeline from a hospital ER to anyone to report what drugs are being encountered. COO Rebecca Walker said there is an initiative between OEMS, Dr. Sweeney and Dr. Horton at Christiana to ensure that reports are sent to Public Health. However, it has been difficult to have all ERs report the drugs found but she believes there is an initiative being put together to address this. COO Walker then shared that DFS is participating in the Delaware Drug Monitoring Initiative (DMI) which utilizes data that is derived from the DFSRP, DEMRS, DIAC, and DSAMH. She then distributed a copy DIAC’s newsletter for review and said it will be issued quarterly. She said the purpose of this initiative is to address the addiction epidemic in Delaware by establishing a sustainable infrastructure to coordinate interdisciplinary data collection, sharing and analysis in real-time within the state and the region to target strategies and accelerate action.

- Ms. Anita Symonds said an objective she would like the Commission to undertake is certifications for the Pathology Unit (i.e., doctors, forensic investigators) similar as was done for the other units, i.e., continuing education, best practices, national standards. Ms. Schwind suggested that a sub-committee be formed under the Standards and Certification Advisory Committee to address certifications and standards for the Pathology Unit, especially since we already know that the morgue facility is one of the things in question for N.A.M.E. accreditation. DAG Lisa Morris said a sub-committee must still follow FOIA. ODS Schwind made a motion to a sub-committee. Senator Marshall seconded the motion. The vote was unanimous.
- Chief Hughes asked if anyone had any additional objectives/goals to add. Hearing none, he moved the meeting to Director Evans for his DFS report.

6. DFS Director's Report

- Staffing:
 - a. Since our last meeting, DFS welcomed three new Analytical Chemists to the Forensic Chemistry team. They are all on schedule and doing well in their training.
 - b. On January 8th, Johna Esposito started as the DFS Quality Assurance Manager (QAM).
 - c. On February 6th, an Analytical Chemist filled a vacancy and joined the Toxicology team. She will function at a senior level and assist the unit developing new methods for case processing.
 - d. The six Analytical Chemist positions to be added to the Forensic Chemistry unit were posted and we received 85 applications.
 - e. Interviews were completed on January 30th, and a selection was made, to fill the Office Manager position at the Georgetown facility. Once the background has been completed, we will identify a start date.
 - f. Interviews were completed February 9th for the Casual/Seasonal Lab Maintenance Technician and for the Chief Forensic Investigator position. Offers will be made soon for these two positions and then to background for the Lab Maintenance Tech.
 - g. Interviews for a DNA Analyst position will be conducted on February 23rd and 24th. The position was vacated by Analyst Niyrai Hall, who resigned in late December.
 - h. Three positions remain open: (all positions are currently posted)
 - Casual/Seasonal Management Analyst – to assist in managing the FLIMS system, which is currently being handled by DTI thru an MOU;
 - Casual/Seasonal Pathologist, Georgetown – COO Rebecca Walker is currently working with Dr. Finelli at the Dover Air Force Base on a possible opportunity.
 - Lab Manager, Toxicology Unit – this position was vacated by Johna Esposito.

- i. DFS will be experiencing some significant staffing challenges beginning in the May/June timeframe due to three of our analysts being out on maternity leave (one from Forensic Chemistry Unit and two from the Toxicology Unit). The staff shortage will result in some increase in overtime but we are also managing resources by having Johna Esposito help out with case reviews and allowing remote access to FLIMS to allow for report approval afterhours.
- k. DFS recently had a UD student intern with us in the DNA Unit, as well as a student spending some time interning with Dr. Vershovsky in Pathology.
- l. All of our team has completed the annual training in bio-ethics, chemical labels, MSDS sheets, lab safety, chemical hygiene, and fire safety.
- o Management of Drug Cases and NMS:
 - a. As reported at the last Commission meeting, it is the goal of DFS to be in the position to be independently capable of accommodating all of the controlled substance testing needs in Delaware by year-end 2017.
 - b. To accomplish this aggressive timeline, DFS needs to continue to work closely with the DOJ and with NMS to effectively manage the pending drug caseload, while balancing the needs of the court and the criminal justice community with fiscal responsibility.
 - c. To that end, Director Evans, DAG Lisa Morris, and FCU Manager Robyn Quinn, are working on an updated Memorandum of Understanding (MOU) with NMS and the DOJ to carry us through 2017.
 - d. OMB has recently made DFS aware of a hard stop in terms of available funding in 2017 to outsource our drug evidence. This includes both our backlogged cases, as well as new case submissions in 2017.
 - e. In mid-December, a meeting was requested to be held between DFS, the DOJ, and NMS to discuss budgets, forecasts, capacities and expectations for 2017. The meeting was held and ensured that we are all on the same page with 2017 goals.
 - f. It is Director Evans' understanding that the DOJ is also experiencing some of their own staffing challenges, but they continue to do their best in providing both NMS and DFS with updated "master lists" of the drug cases. Updating and sharing these master lists is critical in our effort to meet the deadlines established by the court, while also remaining fiscally responsible and ensuring that we don't spend money on testing cases that have already been resolved in court.
 - g. That backlog at DFS and NMS continues but with ramped up staffing at NMS and with aggressive management of the cases by the DOJ, DFS continues to work our way through the backlogged cases, while also meeting the demands of new case submissions.

- h. Given that the DOJ, NMS, and DFS case lists are fluid and change almost daily, it is difficult to provide the Commission with accurate and hard numbers. However, DFS can report that there continues to be several hundred cases in backlog, with new case submissions coming in every day.
- i. While DFS continues to be concerned with the current backlog of cases, DFS is optimistic in terms of the future. NMS has ramped up their staffing in an effort to get through the backlog and we hope that it can be reported at our next meeting that DFS has brought on additional analytical chemists who, after trained and cleared, will also be able to handle additional caseloads.
- j. Turn-Around-Times (TATs) for the Forensic Chemistry Unit currently average 38 days, which is very aggressive and below the reported TATs of labs in other jurisdictions.
- k. Although unrelated to controlled substances, it is important to share that the demands on the Toxicology Unit continue to increase, while the number of backlogged and pending cases continue to decrease. Additionally, the DNA Unit continues to do a very efficient job in their case management and their TATs have dropped significantly from last year.
- o Technology and Equipment:
 - a. Barcoding:
 - The trial and evaluation period for the barcode printer and scanner has been completed in each of the units and all of the bugs have been worked out. DFS is now in Phase II of the project, which is the procurement phase, at which time additional printers, ribbons, labels and scanners will be purchased. DTI advises that it could take 6-8 weeks to complete this phase, after which, the project will move to implementation.
 - b. FLIMS Medical Examiner Module: due to some last minute technical issues and modifications, the module is not working. Dr. Collins, Chief Medical Examiner, continues to work with DTI and the vendor and we hope to have that part of the system up and running shortly.
 - c. The new DFS website went live on November 20th and if anyone hasn't already done so, visit the site (<http://dshs.delaware.gov/forensics/>). The site allows for on-line requests for autopsy reports and feedback.
 - d. On January 19th, DFS Unit Leaders participated in an implementation call for the Qualtrax system. Qualtrax is compliance management software for the forensics industry to ensure compliance to ISO and ASCLD standards. It will be a place to organize and store all of our policies, certifications, manuals, etc.

- e. DFS has secured \$360,000 from OMB to purchase Gas Chromatograph (GCs) and Balance instruments to accommodate the first and second group of three new analytical chemists. DFS will need to seek additional funds to purchase the remaining equipment needs for the second wave of three chemists.
- f. Three additional computers have been ordered for the first wave of new chemists as well and should arrive shortly.
- o Building Modifications:
 - a. The construction phase of the morgue project has been delayed and Facilities Management has advised that a more realistic start date will be September 2017. This is approximately a 6-month delay from the February 2017 start date that was provided previously.
 - Two main factors of this delay were: 1) Facilities Management was waiting for DFS to identify an alternate location to perform autopsies during the shutdown before moving to the bid phase, and 2) The added modifications including the new epoxy floor, autopsy work stations, and body lift system, are currently in the design phase at Facilities Management.
 - With respect to identifying an alternate location to conduct autopsies, DFS has abandoned the Elsmere V.A. as being a viable option. DFS had been in negotiations with the V.A. since the summer of 2016, and no progress has been made despite numerous requests on our part. Given the current Federal scrutiny at the Elsmere, V.A. and so as not to delay our project any longer, the decision was made to now focus on using our Georgetown facility to conduct autopsies during the Wilmington shutdown.
 - Once the design phase has been completed, the entire project will be sent out to bid. We have been told that the bid process alone could take approximately three months.
 - While this is a significant delay, we have been assured that no funding will be lost that was allocated for this project. When this project is completed, the morgue will be a much more effective, safe, and efficient work environment and one that is much closer to compliance of N.A.M.E. standards. However, there are a couple of things that N.A.M.E. asked for which we cannot resolve. One is capacity; we cannot build out or up; and the other is that we load/unload decedents out of the environment; installing a sallie port or lean-to are code violations due to our proximity to the property line. ODS Schwind asked if the certification will be lost. Director Evans is hoping that in January 2019, they will see the significant modifications and understand our restrictions, and see that we are moving forward at least, with a feasibility study regarding consolidation and/or relocating. Seeing all the effort on our part, we are looking for them to give us extension of our accreditation.

- b. With respect to our Georgetown facility, a new generator was installed in mid-December and AdvanTech installed security card readers for the exterior doors.
 - c. A panic alarm button was installed under the front desk in the lobby here at DFS in an effort to make a safer environment in an area where we sometimes encounter disorderly family members of decedents.
 - d. A meeting was held recently between DFS and the City Fire Marshall to ensure that the necessary keys were located in the Knox Box. In addition, we added red signage to the Fire Alarm room and the Electrical Room. We will soon be inviting the first due engine company to familiarize themselves with our building as well.
 - e. A sprinkler system is in the process of being installed in the older section of this building and a new fire alarm panel is being installed as well.
 - f. DFS is working with Facilities Management to identify a vendor to come to our building and give us a cost estimate on space modifications upstairs in the Forensic Chemistry lab area and down in the basement office area, which are needed to accommodate the six new analytical chemists who will be coming onboard.
- Other:
- a. Director Evans thanked Chief Hughes for appearing at the OMB budget hearing on behalf of the Commission to ask OMB for funding to support a feasibility study. Given the current fiscal climate of the State, DFS needs and appreciates the support of the Commission.
 - b. On February 7, 2017, an ASCLD site surveillance audit was conducted at DFS to check on conformance with performance declaration reporting requirements as specified in the ASCLD/LAB International Program Overview. In addition, the assessor witnessed testing and calibration activities in the labs, completed a case audit trail, verified path implementation of corrective actions have been effective and reviewed records of our most recent internal audits, proficiency tests, training records, etc. Although DFS will not receive the formal report for some time, the assessor conveyed to us that there are no “findings” or violations and commented that our documentation was well organized, training records were complete, and competency tests were thorough.
 - c. The customer satisfaction survey closed at the end of the year and, after reviewing the results, will be reported back to the Commission when completed.
 - d. DFS continues to work in partnership with the Capitol Police and have identified a space at their headquarters in the Tatnall Building in Dover, to open a Kent County Office for the forensic investigators. DTI has ordered a desktop computer and phone. We are looking at a possible open date to be in March, provided we get the equipment in and installed. Again, this will reduce our response time to death scenes in Kent County and will help DFS to better manage overtime and fatigue issues with the forensic investigators.

- e. DFS met with Jana Simpler from the Office of Highway Safety (OHS) to discuss a research effort to test all past year's DUI blood samples. Further discussions are needed between the DSP and legal review.
- f. Recently, DFS was contacted by Legislative analysts and requested to provide an impact report on proposed HB 46, which is similar to the Legislation HB 141, which was proposed during the last Legislative session, regarding the collection of DNA samples at the time of arrest as opposed to time of conviction. DFS is awaiting the numbers from DIAC and DELJIS before completing the response, but once the DNA analyst position is filled, we will be able to handle an additional 500 samples per month; however, there will be an additional cost for chemical reagents and supplies.
- g. Director Evans addressed the article that appeared in the News Journal last month with regard to the indigent burial of a decedent. Duane Gregg. The article related that the decedent's family was concerned with not knowing that their loved one had been buried by the State in Potter's Field. Upon reviewing the facts of this situation, proper protocols and procedures were followed by DFS and it appears also by DHSS and the funeral home as well. Although all procedures and protocols were followed, in an effort to prevent this from happening again, we have developed an informational pamphlet which we will hand out to all family members at a death scene. ODS Schwind suggested that DFS additionally send a certified letter to the next of kin regarding the decedent. Director Evans said her suggestion is duly noted.

5. Standards & Certifications Advisory Committee

- Dr. Watson is not in attendance, so no report made.

6. Strategic Planning Advisory Committee

- Major Evans said that the committee has not met since the last year and that a new chair needs to be appointed to this Committee. DAG Axelrod said he has an interest in this group but is not sure if he is in a position to assume the role of chair.

7. Commission Members Open Discussion

- Senator Marshall questioned what physically happens to the drug evidence when it is no longer relevant. DAG Barzilai Axelrod responded the AG's office notifies the Prothonotary's office when the case is adjudicated and the evidence is returned to the arresting officer to be destroyed per their destruction protocol. Director Evans said the same is done with drug evidence after it is tested here. ODS Schwind said the State of Delaware has no destruction statute and evidence is handled in each agency by their own procedures.
- Senator Marshall asked if there is any statistical documentation available of drug OD deaths in any of our correctional facilities. Ms. Symonds said that on Page 9 of the DMI newsletter, it shows deaths for residential institutions/jails and perhaps this could be broken down further.

- No DFS CAR's to report.
- ODS Schwind stated that the DMI newsletter provides useful information.
- Ms. Symonds appreciates the creation of the pamphlet from the Pathology Unit.
- Chief Hughes asked that Commission members keep our #1 goal – the Feasibility Study – with them; respective of their day jobs. The importance of getting funding for the feasibility study cannot be understated.

Adjourn

- Hearing no other questions/concerns, Chief Hughes acknowledged the meeting was adjourned.

Next Meeting Date: Monday, April 10, 2017
10:00 am – 12:00 am
DFS, 200 South Adams Street, Wilmington, DE
1st Floor Conference Room